

REMARKS

The applicant proposes amending claims 1, 5, 9-17 and 19 to improve form and canceling claims 3 and 6 without prejudice or disclaimer. Claims 1, 2, 4, 5 and 7-20 will be pending upon entry of this amendment.

Initially, the applicant notes, with appreciation, the indication that claims 11-14, 16 and 17 are allowable if rewritten in independent form.

Claims 12, 14 and 17 have hereby been rewritten in independent form. Accordingly, allowance of claims 12, 14 and 17 is respectfully requested.

Claims 11, 13 and 16 have hereby been amended to depend from claims 12, 14 and 17, respectively, and are believed to be allowable for at least the reasons their respective independent claims are allowable. Accordingly, allowance of claims 11, 13 and 16 is respectfully requested.

Claims 1-10, 15 and 18-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Lechner (U.S. Patent Application Publication No. 2006/0262945). The rejection is respectfully traversed.

Claim 1 recites a portable electronic device that includes a speaker and a receiver for sound reproduction, the speaker and the receiver sharing a back volume space within the portable electronic device. Claim 1, amended as proposed, also recites a control unit configured to actively damp the receiver while the speaker is active, wherein when actively damping the receiver, the control unit is configured to control voltage or current applied to the receiver to actively reduce acoustic leakage from the receiver when the speaker is active. This latter feature was previously recited in claim 3.

As to the feature previously recited in claim 3, the Final Office Action admits that Lechner is silent with respect to this feature (Final Office Action – page 4). The Final

Office Action, however, states that Lechner discloses a circuit with switching/control where the switch is placed in between the resistor and signal for allowing only exclusive audio/buzzer signal to the loudspeaker while the other earpiece may be in operation and points to Fig. 3 and paragraph 0020 for support (Final Office Action – page 4). The Final Office Action further states that based on the above disclosure of Lechner, it is inherent that the control unit is arranged to control voltage or current over the receiver to actively reduce acoustic leakage from the receiver when the speaker is active (Final Office Action – page 4).

Lechner at paragraph 20 and Fig. 3 discloses placing switch control 9 between resistor 10 and output port 6-1' of non-inverting amplifier 8-7 to allow exclusive transmission of either the buzzer signal or the audio signal to the audio power amplifier 4. Lechner at paragraph 20 also discloses that the earpiece speaker 2 cannot be turned on or off using the driving circuitry 1" shown in Fig. 3 (Lechner – paragraph 20, lines 18-21). Therefore, this portion of Lechner does not inherently disclose controlling voltage or current applied to earpiece 2 to actively reduce acoustic leakage from earpiece 2 when speaker 3 is active, as would be required by amended claim 1 based on the alleged equivalence of earpiece 2 to the receiver recited in claim 1. In fact, Lechner discloses that earpiece 2 cannot be turned on or off using the driving circuitry shown in Fig. 3.

For at least these reasons, Lechner does not explicitly or inherently disclose each of the features of amended claim 1. Accordingly, withdrawal of the rejection and allowance of claim 1 are respectfully requested.

Claims 2, 4 and 8 are dependent on claim 1 and are believed to be allowable for at least the reasons claim 1 is allowable. Accordingly, withdrawal of the rejection and allowance of claims 2, 4 and 8 are respectfully requested.

Claim 5, amended as proposed, recites a method that includes actively damping the receiver while the speaker is active, wherein the actively damping the receiver comprises controlling voltage or current applied to the receiver to reduce leakage from the receiver when the speaker is active. This latter feature was previously recited in claim 6.

For reasons similar to those discussed above with respect to claim 1, Lechner does not either explicitly or inherently disclose that actively damping the receiver comprises controlling voltage or current applied to the receiver to reduce leakage from the receiver when the speaker is active, as required by amended claim 5. Accordingly, withdrawal of the rejection and allowance of claim 5 are respectfully requested.

Claims 7, 9 and 10 are dependent on claim 5 and are believed to be allowable for at least the reasons claim 5 is allowable. Accordingly, withdrawal of the rejection and allowance of claims 7, 9 and 10 are respectfully requested.

Claim 15, amended as proposed, recites that when actively damping the second speaker, the control unit is configured to control voltage or current applied to the second speaker to actively reduce acoustic leakage from the second speaker. For reasons similar to those discussed above with respect to claim 1, Lechner does not either explicitly or inherently disclose this feature. Accordingly, withdrawal of the rejection and allowance of claim 15 are respectfully requested.

Claims 18-20 are dependent on claim 15 and are believed to be allowable for at least the reasons claim 15 is allowable. Accordingly, withdrawal of the rejection and allowance of claims 18-20 are respectfully requested.

STATEMENT OF COMMON OWNERSHIP

Although the Final Office Action did not reject any of the claims under 35 U.S.C. § 103 as being unpatentable in view of Lechner, the applicant notes that the present application and Lechner were both commonly assigned or subject to an obligation of assignment to Sony Ericsson Mobile Communications AB at the time the applicant's invention was made. The assignment to Sony Ericsson Mobile Communications AB in the present application was recorded at Reel 018158, Frame 0261. The assignment to Sony Ericsson Mobile Communications AB in Lechner was recorded at Reel 017900, Frame 0430. Since the present application and Lechner were both commonly assigned or subject to an obligation of assignment to Sony Ericsson Mobile Communications AB at the time the applicant's invention was made, the applicant respectfully notes that Lechner cannot be used to preclude patentability of the present invention under 35 U.S.C. § 103(c).

CONCLUSION

The applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered, placing the application in condition for allowance. The applicant submits that the proposed amendments to the claims should not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner since the amendment incorporates features previously recited in various dependent claims into the pending independent claims and rewrites other claims indicated as including allowable subject matter in independent form. Therefore, this Amendment should allow for immediate action by the Examiner. Furthermore, entry of this Amendment would place the application in better form for appeal, in the event that the application is not allowed.

As the applicant's remarks with respect to the Examiner's rejection are sufficient to overcome this rejection, the applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art) is not a concession by the applicant that such assertions are accurate or such requirements have been met, and the applicant reserves the right to analyze and dispute such in the future.

If the Examiner does not believe that all pending claims are now in condition for allowance, the Examiner is urged to contact the undersigned to expedite prosecution of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, L.L.P.

By: /Glenn Snyder, Reg. No. 41,428/
Glenn Snyder
Reg. No. 41,428

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11350 Random Hills Road
Suite 600
Fairfax, VA 22030
Telephone: (571) 432-0800
Facsimile: (571) 432-0808